

REMARKS

In the Office Action dated May 20, 2005, claims 1-18, 20, 22 and 25-37 were rejected under 35 U.S.C. §103(a) as being unpatentable over Matsushita et al. in view of Storch et al. and French et al. Claims 19, 21, 23 and 24 were rejected under 35 U.S.C. §103(a) based on the above combination, further in view of Phillips.

Applicants note with appreciation the interview courteously afforded the undersigned counsel for the Applicants on July 13, 2005, wherein the above amendments were proposed, and the manner by which the claims are patentable over the teachings of the above-cited references was discussed. Although a commitment to allowance was not made at the interview, the Examiner stated that upon the submission of a written response, the Amendment would be entered and the Examiner would recommend allowance to her Supervisor, subject to the approval of her Supervisor and conducting a closeout search.

As discussed at the interview the Matsushita et al. reference operates by adding a reference number, that represents a consumable item in a device, each time that consumable item is depleted and replaced. As explained in detail in Applicants' previous response filed January 3, 2005, this results in the RAM 204 in the Matsushita et al. reference accumulating a running total of each item as it has been consumed and replaced. Each time a replacement of the item occurs, its identification number is *added* to the contents of the RAM 204. The next time a replacement of that item is to occur, the identification number for the replacement item that is intended to be used is compared against the accumulated list in the RAM 204. As long as not match occurs, the new replacement item is then permitted to be used.

There is thus no “striking” of the identification number in the Matsushita et al. reference, it is merely transferred to the RAM 204 when the item that it identifies is consumed and replaced. The identification number therefore still exists in the Matsushita et al. device.

In the May 20, 2005 Office Action, the Examiner relied on the French reference as teaching the “striking” of a code word. The Examiner stated that the French reference teaches a system and method in which a code may be combined in a desired manner as long as the data center has the same combination information available to it, and the Examiner stated the reference code may be considered “struck” in the French reference, because the code may or may not be used again, since the system has the capability of combining the code in any desired manner.

In the independent claims of the present application, the word “striking” in the phrase “by striking the reference code from the device” was used in accordance with its normal dictionary meaning, as exemplified by the excerpt from Webster’s Ninth New Collegiate Dictionary attached hereto. Definition 4 states “to delete something” and definition 18:2b states “to dismantle and take away.” Applicants’ position is that the French reference, by teaching that the code can *combined* in any desired manner, clearly contemplates that there will still be a *result* of the combination that persists or remains in the system and that if the result of any combination of the code in the French reference were a deletion or dismantling of the code, this would destroy the intended operation of the French system.

As discussed at the interview, it makes sense in the French reference to modify or change the code word in question, because the French reference is

directed to an encryption procedure, wherein it is desirable that a currently used code word not be easily derivable from a previously used code word. Applying this concept to the Matsushita et al. reference, however, would destroy its intended operation. This is because, as noted above, it is essential in the Matsushita et al. reference that the identification number for a new replacement item be able to be compared against the accumulated list in the RAM 204. If the identification numbers in the RAM 204 were modified or changed in accordance with the teachings of French before they were stored in the RAM 204, this would prevent making a comparison of any of those stored identification numbers with the identification number of the new replacement item. It is therefore essential that the identification numbers in the Matsushita et al. reference be stored *unchanged* in the RAM 204, in order to make the subsequent comparison with the identification number of a new replacement item possible.

Therefore, as discussed at the interview, modification of the Matsushita et al. reference in accordance with the teachings of French would preclude the Matsushita et al. system from operating as intended, and therefore it is not a permissible basis for justifying a rejection under 35 U.S.C. §103(a), the additional reliance on the Storch reference, as a third reference need not be discussed in detail.

In the May 20, 2005 Office Action, the Examiner cited *In re McLaughlin*, and *In re Bozek* for the proposition that the test for combining references is what the combination of disclosures taken as a whole would suggest to one of ordinary skill in the art, and the proposition that references are evaluated by what they suggest to one versed in the art, rather than by their specific disclosures. Applicants of course do not disagree with these general statements, however, the underlying assumption

behind those statements is that somewhere, outside of Applicants' disclosure, there will be identifiable evidence of motivation or inducement.

The Federal Circuit stated in *In re Lee* 227 F.3d 1338, 61 U.S.P.Q. 2d 1430 (Fed. Cir. 2002):

"The factual inquiry whether to combine references must be thorough and searching. ...It must be based on objective evidence of record. This precedent has been reinforced in myriad decisions, and cannot be dispensed with."

Similarly, quoting *C.R. Bard, Inc. v. M3 Systems, Inc.* 157 F.3d 1340, 1352, 48 U.S.P.Q. 2d 1225, 1232 (Fed. Cir. 1998), the Federal Circuit in *Brown & Williamson Tobacco Court v. Philip Morris, Inc.*, 229 F.3d 1120, 1124-1125, 56 U.S.P.Q. 2d 1456, 1459 (Fed. Cir. 2000) stated:

[A] showing of a suggestion, teaching or motivation to combine the prior art references is an 'essential component of an obviousness holding'.

In *In re Dembiczak*, 175 F.3d 994,999, 50 U.S.P.Q. 2d 1614, 1617 (Fed. Cir. 1999) the Federal Circuit stated:

Our case law makes clear that the best defense against the subtle but powerful attraction of a hindsight-based obviousness analysis is rigorous application of the requirement for a showing of the teaching or motivation to combine prior art references.

Consistently, in *In re Rouffet*, 149 F.3d 1350, 1359, 47 U.S.P.Q. 2d 1453, 1459 (Fed. Cir. 1998), the Federal Circuit stated:

[E]ven when the level of skill in the art is high, the Board must identify specifically the principle, known to one of ordinary skill in the art, that suggests the claimed combination. In other words, the Board must explain the reasons one of ordinary skill in the art would have been motivated to select the references and to combine them to render the claimed invention obvious.

In *Winner International Royalty Corp. v. Wang*, 200 F.3d 1340, 1348-1349, 53 U.S.P.Q. 2d 1580, 1586 (Fed. Cir. 2000), the Federal Circuit stated:

Although a reference need not expressly teach that the disclosure contained therein should be combined with another, ... the showing of combinability, in whatever form, must nevertheless be clear and particular.

Lastly, in *Crown Operations International, Ltd. v. Solutia, Inc.*, 289 F.3d 1367, 1376, 62 U.S.P.Q. 2d 1917 (Fed. Cir. 2002), the Federal Circuit stated:

There must be a teaching or suggestion within the prior art, within the nature of the problem to be solved, or within the general knowledge of a person of ordinary skill in the field of the invention, to look to particular sources, to select particular elements, and to combine them as combined by the inventor.

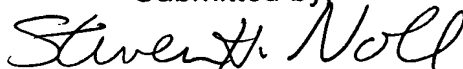
As noted above, the Examiner acknowledged that the Matsushita reference discloses the use of code numbers to prevent unauthorized use, but does not specifically disclose “striking” a number once it is used, but the Examiner relied on the French reference as using a wide combination of code numbers that may be changed over time, or even randomized, for increased security. Applicants respectfully submit that in order to use these statements as a basis for substantiating a rejection under 35 U.S.C. §103(a) the Examiner must first demonstrate why a person of ordinary skill in the relevant field would consider the combining of code numbers to be “striking” a code number and must then present evidence as to why such a person of ordinary skill would be motivated or induced to modify the Matsushita reference to “strike” reference code numbers (as opposed to “combining” reference code numbers). Applicants respectfully submit that the Examiner has failed to provide the rigorous evidentiary substantiation for reaching such a conclusion, as required by the above-cited decisions.

In view of all of the above, it was agreed at the interview that prosecution would be advanced by at all locations in the independent claims substituting

"permanently deleting" for "striking." The phrase "permanently deleting" is consistent with, and a part of, the attached dictionary definitions for "striking," and therefore it does not raise a new issue requiring further searching or consideration, but clarifies Applicants' original intent with regard to the independent claims to the satisfaction of the Examiner.

In view of the agreements reached at the interview, all claims of the application are submitted to be in condition for allowance, and early consideration of the application is respectfully requested.

Submitted by



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Ab

a: either of the straight sides of a racecourse; **esp**: HOMESTRETCH **b**: a final stage **8**: the capacity for being stretched: ELASTICITY
stretch *adj* (1954): easily stretched: ELASTIC (a ~ wig)
stretch-er *'stretch-ər* *n* (15c): 1: one that stretches; **esp**: a device or machine for stretching or expanding something **2**: a brick or stone laid with its length parallel to the face of the wall **3**: a timber or rod used **esp**, when horizontal as a tie in framed work **4**: a litter (as of canvas) for carrying a disabled or dead person **5**: a rod or bar extending between two legs of a chair or table
stretch-er-bearer *-, -bar-ər, -ber-ər* *n* (ca. 1876): one who carries one end of a stretcher
stretch-out *'stretch-əut* *n* (1930): 1: a system of industrial operation in which workers are required to do extra work and **esp**, to operate more machines than formerly either with slight or with no additional pay **2**: a: the act of stretching out: the state of being stretched out **b**: an economizing measure that spreads a limited quantity over a larger field than orig. intended
stretch receptor *n* (ca. 1956): MUSCLE SPINDLE
stretch runner *n* (1922): a racehorse that makes a strong bid in the homestretch
stret-to *'stret-(d)ə* *also* *'stret-tə* *-ə* *n*, *pl* *stret-ti* *-(d)ə* or *stret-tos* [*stretto* fr. It, fr. *stretto* narrow, close, fr. L *strictus*, pp. *strictus* fr. It, fr. fem. of *stretto* — more at *STRIT*] (1854) **1**: a: the overlapping of answer with subject in a musical fugue **b**: the part of a fugue characterized by this overlapping **2**: a concluding passage performed in a quicker tempo
strew-sel *'stri-səl, -zəl, 's(h)trōi-* *n* [G. lit., something strewn; fr. MHG *ströusen*, fr. *ströuwen* to strew, fr. OHG *strewen*] (1926): a crumbly mixture of fat, sugar, and flour and sometimes nuts and spices that is used as topping or filling for cake
strew *'stru* *v*, *strewed*; *strewed* or *strewn* *'strūn*; *strew-ing* [*ME strewen, strowen*, fr. OE *strewian, strowian*; akin to OHG *strewen* to strew, L *struere* to heap up, *sternere* to spread out, Gk *sternynai*] (bef. 12c) **1**: to spread by scattering **2**: to cover by or as if by scattering something (the highways with litter) **3**: to become dispersed over as if scattered **4**: to spread abroad: DISSEMINATE
strew-ment *'stri-mənt* *n*, *archaic* (1602): something (as flowers) strewn or designed for strewn
stria *'stri-ə* *n*, *pl* *striae* *'stri-ē* [L. furrow, channel — more at *STRIKE*] (1563) **1**: STRIATION **2**: a: a stripe or line (as in the skin) distinguished from surrounding tissue by color, texture, or elevation (the striae of pregnancy resulting from stretching and rupture of elastic fibers)
stria-te *'stri-ət, -ət* *adj* (1670): STRIATED
stria-te *'stri-ət, -ət* *adj* (1709): to mark with striations or striae
stria-ted *'stri-ət-əd* *adj* (1646) **1**: marked with striations or striae **2**: of, relating to, or being striated muscle
striated muscle *n* (1866): muscle tissue that is marked by transverse dark and light bands, that is made up of elongated multinuclear fibers, and that is found in the muscles under voluntary control; clothing the vertebrate skeleton and in all or most of the musculature of arthropods — compare SMOOTH MUSCLE
stri-ation *'stri-ā-shən* *n* (ca. 1847) **1**: a: the fact or state of being striated **b**: arrangement of striations or striae **2**: a minute groove, scratch, or channel **esp**, when one of a parallel series **3**: any of the alternate dark and light cross bands of a myofibril of striated muscle
strike *'stri:k* [*ME stria, stria*, prob. of EG or D origin; akin to MLG *strik* rope, MD *strik*] (15c): a bunch of hacked flax, jute, or hemp
strike-en *'stri:k-ən* *adj* [fr. pp. of *strike*] (15c) **1**: hit or wounded by or as if by a missile **2**: a: afflicted or overwhelmed by or as if by disease, misfortune, or sorrow **b**: made incapable or unfit: INCAPACITATED
strike-le *'stri:k-lə* *n* [*ME strikell*; akin to OE *strican* to stroke — more at *STRIKE*] (15c): a foundry tool for smoothing the surface of a core or mold — *strike-le* *vi*
strike *'stri:k* *adj* [*L strictus*, fr. pp. of *stringere* to bind tight — more at *STRAIN*] (1578) **1**: a: stringent in requirement or control (under ~ orders) **b**: severe in discipline (a ~ teacher) **2**: a: inflexibly maintained or adhered to: COMPLETE (~ secrecy) **b**: rigorously conforming to principle or a norm or condition (a ~ Catholic) **3** *archaic* **a**: TIGHT, CLOSE; *also*: INTIMATE **b**: NARROW **4**: EXACT, PRECISE (in the ~ sense of the word) **5**: of narrow erect habit of growth (a ~ inflorescence) **syn** see RIGID — *strictly* *'stri:k-(t)li* *adv* — *strict-ness* *'stri:k-(t)nəs* *n*
strike-ture *'stri:k-ʃər* *n* [*ME, fr. LL strictura*, fr. L *strictus*, pp.] (15c) **1**: an abnormal narrowing of a bodily passage; *also*: the narrowed part **2**: something that closely restrains or limits: RESTRICTION (moral ~) **3**: an adverse criticism: CENSURE
stride *'strid* *v*, *strode* *'strōd*; *strid-den* *'strid-n*; *strid-ing* *'strid-ɪŋ* [*ME striden*, fr. OE *stridan*; akin to MLG *striden* to straddle, OE *starian* to stare — more at *STARE*] *vi* (bef. 12c) **1**: to stand astride **2**: to move with or as if with long steps **3**: to take a very long step ~ *vi* **1**: BESTRIDE, STRADDLE **2**: to step over **3**: to move over or along with or as if with long measured steps — *strider* *'strid-ər* *n*
stride *n* (bef. 12c) **1**: a long step **2**: an act of striding **3**: a stage of progress: ADVANCE **4**: a cycle of locomotor movements (as of a horse) completed when the feet regain the initial relative positions; *also*: the distance traversed in a stride **b**: the most effective natural pace: maximum competence or capability **5**: a manner of striding — *In stride* **1**: without interference with regular activities **2**: without becoming upset
stride-ence *'strid-ən(s)* *n* (1890): STRIDENCY
stride-ent *'strid-ən-sə* *n* (1865): the quality or state of being strident
stri-dent *'strid-ən-t* *adj* [*L strident-, stridens*, pp. of *stridere, stridere* to make a harsh noise; akin to Gk & L *strix* owl] (ca. 1656): characterized by harsh, insistent, and discordant sound, (a ~ voice); *also*: commanding attention by a loud or obtrusive quality (~ slogans) **syn** see LOUD, VOCIFEROUS — *stridently* *adv*
stride piano *n* [fr. *stride bass* (left hand part consisting of large skips)] (1952): a style of jazz piano playing in which the right hand plays the melody while the left hand alternates between a single note and a chord played an octave or more higher

strid-er *'strid-ər, 'stri-dō(ə)r* *n* [L. fr. *stridere, stridere*] (1632) **1**: a harsh, shrill, or creaking noise **2**: a harsh vibrating sound heard during expiration in cases of obstruction of the air passages
strid-u-late *'stri-j-ə-lāt* *vi* *-lat-ed, -lat-ing* [back-formation fr. *stridulation*, fr. F, high-pitched sound, fr. L *stridulus* shrill] (1838) **1**: to make a shrill creaking noise by rubbing together special bodily structures — *used esp*, of male insects (as crickets or grasshoppers) — *strid-u-la-tion* *'stri-j-ə-lā-shən* *n* — *strid-u-la-to-ry* *'stri-j-ə-lō-tōr-ē, -tōr-ə* *adj*
strid-u-lous *'stri-j-ə-ləs* *adj* [L *stridulus* fr. pp. of *stridere, stridere*] (1611): making a shrill creaking sound — *strid-u-lous-ly* *adv*
strife *'stri:f* *n* [*ME strife*, fr. OF *estrif*, prob. fr. *estriver* to struggle — more at *STRIVE*] (13c) **1**: a: bitter sometimes violent conflict or dissension (political ~) **b**: an act of contention: FIGHT, STRUGGLE **2**: exertion or contention for superiority **3** *archaic*: earnest endeavor **syn** see DISCORD — *strife-less* *'stri-fləs* *adj*
strig-ill *'strij-əl* *n* [L *strigilla*; akin to L *stringere* to touch lightly] (1581) **1**: instrument used by ancient Greeks and Romans for scraping moisture off the skin after a bath or exercising
stri-gose *'stri-gōs* *adj* [NL *strigosus*, fr. *striga* bristle, fr. L, furrow] (ca. 1793): having appressed bristles or scales (a ~ leaf)
strike *'stri:k* *v*, *struck* *'strʌk*; *struck* *also* *stricken* *'stri-kən*, *striking* *'stri-kiŋ* [*ME striken*, fr. OE *strican* to stroke, go; akin to OHG *strihan* to stroke, L *stringere* to touch lightly, *striga*, *stria* furrow] *vi* (bef. 12c) **1**: to take a course: GO (*struck* off through the brush) **2**: to aim and usu. deliver a blow or thrust (as with the hand, a weapon, or a tool) **3**: to come into contact forcefully (two ships *struck* in mid channel) **4**: to delete something **5**: to lower a flag usu. in surrender **6**: a: to become indicated by a clock, bell, or chime (the hour had just *struck*) **b**: to make known the time by sounding (the clock *struck* as they entered) **7**: PIERCE, PENETRATE (the wind seemed to ~ through our clothes) **8**: a: to engage in battle **b**: to make a military attack **9**: to become ignited **10**: to discover something (he *struck* on a new plan of attack) **11**: a: to pull on a fishing rod in order to set the hook *b of a fish*: to seize the bait **12**: DART, SHOOT **13**: a: of a plant cutting: to take root *b of a seed*: GERMINATE **14**: to make an impression **15**: to stop work in order to force an employer to comply with demands **16**: to make a beginning (the need to ~ vigorously for success) **17**: to thrust oneself forward (he *struck* into the midst of the argument) **18**: to work diligently (*strive* ~) **1**: a: to strike at: HIT **b**: to drive or remove by or as if by a blow **c**: to attack or seize with a sharp blow (as of fangs or claws) (*struck* by a snake) **d**: INFLECT (~ a blow) **e**: to produce by or as if by a blow or stroke (Moses *struck* water from the rock) **f**: to separate by a sharp blow (~ off flints) **2**: a: to haul down: LOWER (~ the sails) **b**: to dismantle and take away **c**: to strike the tents of (a camp) **3**: to afflict suddenly (*stricken* by a heart attack) **4**: a: to engage in (a battle) **b**: FIGHT **b**: to make a military attack on **5**: DELETE, CANCEL (~ the last paragraph) **6**: a: to penetrate painfully: PIERCE **b**: to cause to penetrate **c**: to send down or out (trees *struck* roots deep into the soil) **7**: a: to level (as a measure of grain) by scraping off what is above the rim **b**: to smooth or form with a strickle **8**: to indicate by sounding **9**: a: (1) to bring into forceful contact (2) to shake (hands) in confirming an agreement (3) to thrust suddenly **b**: to come into contact or collision with, *c of light*: to fall on *d of a sound*: to become audible to **10**: a: to affect with a mental or emotional state or a strong emotion (*struck* with horror at the sight) **b**: to affect a person with (a strong emotion) (his words *struck* fear in the listeners) **c**: to cause to become by or as if by a sudden blow (*struck* him dead) **11**: a: to produce by stamping **b**: (1) to produce (as fire) by or as if by striking (2) to cause to ignite by friction **12**: to make and ratify the terms of (~ a bargain) **13**: a: to play or produce by stroking keys or strings (*struck* a series of chords on the piano) **b**: to produce as if by playing an instrument (his voice *struck* a note of concern) **14**: a: to hook (a fish) by a sharp pull on the line *b of a fish*: to snatch at (a bait) **15**: a: to occur to (the answer *struck* him suddenly) **b**: to appear to *esp*, as a revelation or as remarkable: IMPRESS **16**: BEWITCH **17**: to arrive at by computation (~ a balance) **18**: a: to come to: ATTAIN **b**: to come upon: DISCOVER (~ gold) **19**: to engage in a strike against (an employer) **20**: TAKE ON, ASSUME (~ a pose) **21**: a: to place (a plant cutting) in a medium for growth and rooting **b**: to so propagate (a plant) **22**: to make one's way along **23**: to cause (an arc) to form (as between electrodes of an arc lamp) **24 of an insect: to oviposit on or in **syn** see HIT, AFFECT
strike *n* (15c) **1**: STRICKLE **2**: an act or instance of striking **3**: a: a work stoppage by a body of workers to enforce compliance with demands made on an employer **b**: a temporary stoppage of activities in protest against an act or condition **4**: the direction of the line of intersection of a horizontal plane with an uplifted geological stratum **5**: a: a pull on a fishing rod to strike a fish **b**: a pull on a line by a fish in striking **6**: a stroke of good luck; *esp*: a discovery of a valuable mineral deposit **7**: a: a pitched ball that is in the strike zone or is swung at and is not hit fair **b**: a perfectly thrown ball **8**: DISADVANTAGE, HANDICAP **9**: an act or instance of knocking down all the bowling pins with the first bowl **10**: establishment of roots and plant growth **11**: cutaneous myiasis (as of sheep) (body ~) **12**: a: a military attack; *esp*: an air attack on a single objective **b**: a group of airplanes taking part in such an attack
strike-bound *'stri:k-baund* *adj* (1943): subjected to a strike
strike-breaker *-, -brä-kər* *n* (ca. 1904): one hired to replace a striking worker
strike-breaking *-, -kiŋ* *n* (1919): action designed to break up a strike
strike off *vi* (1821) **1**: to produce in an effortless manner **2**: to depict clearly and exactly
strike-out *'stri-kaut* *n* (1887): an out in baseball resulting from a batter's being charged with three strikes
strike out *'stri-kaut* *vi* (1712) **1**: to enter upon a course of action **2**: to set out vigorously **3**: to make an out in baseball by a strikeout**

ab about *ch* chicken *f* further *ash* *ace* *ai* cot, cart
au out *bet* *easy* *go* *hit* *ice* *job*
law *boy* *thin* *the* *foot*
yet *vision* *k*, *g*, *ce*, *ue*, *ie*, *see* Guide to Pronunciation